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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/038,513 | 01/03/2002 | Kwang Chun Chung | 2316-012216 | 6001 |

28289 7590 02/23/2005

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| EXAMINER |
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LE, DANH C

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| ART UNIT | PAPER NUMBER |
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2683

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,513

Applicant(s)

CHUNG ET AL.

Examiner

DANH C LE

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to the communication on 02/04/05, which replaced the Non Final Rejection on date 9/8/04.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 5, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Lathrop (US 6,320,960).

As to claim 1, Lathrop teaches an over-the-ear type headset (figure 1) comprising:

a headset body containing an earphone and a microphone (col.3, lines 17-20);

and

a hanger coupled to the headset body, which is adapted to be bent along a back of a user's ear (col.4, lines 25-39).

As to claim 2, Lathrop teaches the over-the-ear type headset as set forth in claim further comprising an electrical wire connected to the earphone and the microphone for allowing audio signals be transmitted to and from the earphone and the microphone (col.4, lines 16-24).

As to claim 5, Lathrop teaches the over-the-ear type headset as set forth in claim 1, in which the headset body comprises a housing containing the earphone (20) at an upper part and microphone at a lower the part (50).

As to claim 6, Lathrop teaches the over-the-ear type headset as set forth in claim 5 which the housing is provided with a bulging portion at an inner surface corresponding an ear hole of user's ear (col.5, lines 23-36, a raise surface 385 forming a compressible cavity between the flat cover and the raised surface 385).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lathrop in view of Lear (US 5,042,933).

As to claim 3, Lathrop teaches the over-the-ear type headset as set forth in claim 1, Lathrop fails further teaches comprising an end-cap coupled to an end of the hanger and having bulging portion which is radially enlarged. Lear teaches an end-cap coupled to an end of the hanger and having bulging portion, which is radially enlarged (col.4, line 52-col.5, line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Lear into the system of Lathrop in order to snugly secure the headset to any size ear lobe as Lear suggested (col.4, line 52-col.5, line 10).

As to claim 4, the combination of Lathrop and Lear teaches the over-the-ear type headset as set forth in claim 3 in which the bulging portion is provided only at an area of the end-cap which faces toward a user's head when the hanger is bent along a back of a user's ear (Lear, col.4, line 52-col.5, line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Lear into the system of Lathrop in order to snugly secure the headset to any size ear lobe as Lear suggested (col.4, line 52-col.5, line 10).

3. **Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lathrop in view of Pallai (US 2001/0036291).**

As to claim 7, Lathrop teaches the over-the-ear type headset as set forth in claim 1, in which the hanger comprises a core having an internal passage. Lathrop fails to teach further comprising of an iron wire wound into a spiral spring shape, a filler wound on core to be positioned in a groove between adjacent loops of the wire, and a sheath surrounding the core and the filler. Pallai teaches a steel wire wound into a spiral spring shape, a filler wound on core to be positioned in a groove between adjacent loops of the wire, and a sheath surrounding the core and the filler (paragraph 0032-0034). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Pallai into the system of Lathrop in order to maintain the bending position of hanger.

As to claim 8, the combination of Lathrop and Pallai further teaches the over-the-ear type headset as set forth in claim 7 in which the sheath is made from polyethylene (Pallai, paragraph 0034).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C LE whose telephone number is 703-306-0542. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'danh', is written over a horizontal line.

Danh C.Le

DANH CONG L
PATENT EXAMINER